

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RICHARD MAGGIO, M.D.

Plaintiffs,

-against-

CVS PHARMACY, INC. and VANNA TSUI,

Defendants.

COMPLAINT

CIVIL ACTION  
CASE NUMBER:

JURY DEMANDED

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Plaintiff, RICHARD MAGGIO, M.D., by his attorney, CHARLES C. DESTEFANO,  
ESQ., complaining of the defendants, respectfully shows and alleges as follows:

FIRST: The plaintiff, RICHARD MAGGIO, M.D., at the time of the institution  
of this action was and still is a resident of the County of Somerset, State of New Jersey and  
submits himself to the jurisdiction of this Court.

SECOND: That upon information and belief, and at all times hereinafter mentioned,  
defendant CVS PHARMACY, INC. is a foreign corporation, organized and existing pursuant to  
the laws of the state of Rhode Island and authorized to do business in the states of New York and  
New Jersey.

THIRD: Upon information and belief, defendant, VANNA TSUI, at all times hereinafter  
mentioned was a resident of the State of New Jersey.

FOURTH: That jurisdiction properly lies with the Federal District Court by virtue of  
the diversity of the citizenship of the plaintiffs and defendants as set forth in Title 28 U.S.C.  
Section 1332 and the nature of this action being over the amount in question, exceeding the sum  
of SEVENTY FIVE THOUSAND AND 00/100 (\$75,000.00) DOLLARS, exclusive of interest

and costs.

FIFTH: That defendant CVS PHARMACY INC maintains a pharmacy located at 890 St. Georges Avenue, City of Rahway, State of New Jersey, hereinafter referred to as “defendant’s pharmacy”.

SIXTH: That defendant VANNA TSUI is a pharmacist employed by defendant’s pharmacy.

SEVENTH: Defendant CVS PHARMACY INC. is vicariously liable for the actions of its employee VANNA TSUI, during the course and scope of her employment.

EIGHTH: That plaintiff RICHARD MAGGIO, M.D. is a medical doctor licensed to practice medicine in the state of New Jersey and maintains an office located at 211 Courtyard Drive, town of Hillsboro, State of New Jersey.

NINTH: That on Saturday, January 27, 2007 at approximately 11:30 p.m., plaintiff received a telephone call from one of his patients (hereinafter referred to as “John Doe” for purposes of maintaining the doctor/patient privilege).

TENTH: John Doe explained to plaintiff that he was in severe pain and requested plaintiff to telephone a prescription for pain medication to defendant’s pharmacy.

ELEVENTH: Plaintiff contacted defendant’s pharmacy and orally requested a prescription for Percocet for John Doe and indicated that he would forward a hard copy of the prescription to defendant’s pharmacy on Monday morning. Defendant VANNA TSUI responded that she would have to verify that plaintiff was a physician. Plaintiff advised VANNA TSUI that he was not on call that evening but that she should call his answering service and ask them to page him. Plaintiff was not subsequently paged by his answering service.

TWELFTH: When John Doe arrived at defendant's pharmacy, defendant VANNA TSUI refused to fill the prescription. Plaintiff then contacted defendants again and defendant VANNA TSUI refused to fill the prescription and told plaintiff he would be arrested.

THIRTEENTH: Plaintiff went to defendant's pharmacy to show defendant VANNA TSUI his identification. Defendant VANNA TSUI refused to speak with him and called the police. When the police arrived, defendant VANNA TSUI accused plaintiff of committing the crime of impersonating a doctor.

FOURTEENTH: Plaintiff RICHARD MAGGIO was taken to the police station and detained for two hours.

#### FIRST CAUSE OF ACTION

FIFTEENTH: Defendant VANNA TSUI's comments that plaintiff was impersonating a doctor were false, malicious and defamatory.

SIXTEENTH: Defendants slandered plaintiff RICHARD MAGGIO.

SEVENTEENTH: Plaintiff RICHARD MAGGIO a private person and is not a public figure.

EIGHTEENTH: Defendants acted with gross irresponsibility toward plaintiff RICHARD MAGGIO.

NINETEENTH: Defendants acted with a reckless disregard for the truth and the rights of plaintiff RICHARD MAGGIO.

TWENTIETH: Defendants acted in a grossly irresponsible manner without due consideration for the standards of information gathering and dissemination ordinarily followed by responsible parties.

TWENTY FIRST: As a result of defendants' defamatory acts, plaintiff RICHARD MAGGIO was damaged.

TWENTY SECOND : Plaintiff RICHARD MAGGIO was injured in his reputation in the community in which he lives and practices and has suffered humiliation, emotional distress, great pain and mental anguish.

TWENTY THIRD: Defendants' actions rose to the level of impropriety meriting punitive damages.

#### SECOND CAUSE OF ACTION

TWENTY FOURTH: Plaintiff repeats and re-alleges the allegations set forth in paragraphs ONE through TWENTY THREE as with the same force and effect as though each were more fully set forth at length herein.

TWENTY FIFTH: As a result of defendant's false accusations, plaintiff RICHARD MAGGIO was falsely detained.

TWENTY SIXTH: As a result of defendant's actions, plaintiff RICHARD MAGGIO was damaged in that he was held against his will and deprived of his liberty, causing him to suffer humiliation, emotional distress, great pain and mental anguish.

WHEREFORE, the plaintiff RICHARD MAGGIO, demand judgment against the defendants, CVS PHARMACY INC. and VANNA TSUI, on these Causes of Action in amounts which exceed the monetary jurisdictional limits of any and all lower courts which would otherwise have jurisdiction, and amounts to be determined at the trial of this action altogether with the interest, costs and disbursements of this action.

JURY DEMAND

Plaintiffs demand trial by jury.

Dated: Staten Island, New York

Law Office of  
CHARLES C. DESTEFANO  
Attorney for Plaintiff,

By: \_\_\_\_\_  
CHARLES C. DESTEFANO (CD0150)  
1082 Victory Blvd.  
Staten Island, New York 10301  
718-390-0580